

## **REMARKS**

Reconsideration of the above-identified patent application is respectfully requested. Claims 1, 2, 5, 9, 10, 36, 37, 40, 44, 45, and 71 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,553,589 to Middleton (hereinafter Middleton). Claims 3,4, 6-8, 38, 39, and 41-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Middleton in view of U.S. Patent No. 6,436,005 to Bellinger (hereinafter Bellinger). For at least the following reasons, applicant respectfully traverses these rejections.

In regard to claim 1, the Examiner rejected this claim under 35 U.S.C. §102(b) as being anticipated by Middleton. However, as Applicant asserted in his filed response to the Office Action dated November 18, 2003, Middleton fails to show or disclose all of the limitations of claim 1. For example, Middleton fails to show or disclose "a vehicle speed sensor producing a vehicle speed signal . . ." or a ". . . control computer modifying said engine speed difference as a continual function of said vehicle speed signal," as recited in applicant's claim 1. Rather, the only speed sensor shown and disclosed in Middleton is an engine speed sensor 32. See FIGS. 5A and 5B, and Col. 6, ll. 65-Col. 7 ll. Accordingly, claim 1 is not anticipated by Middleton.

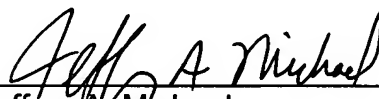
In regard to claim 36, the Examiner rejected this claim under 35 U.S.C. §102(b) as being anticipated by Middleton. However, as Applicant asserted in his filed response to the Office Action dated November 18, 2003, Middleton fails to show or disclose all of the limitations of claim 36. For example, Middleton fails to show or disclose "a vehicle speed sensor producing a vehicle speed signal . . ." and a ". . . control computer modifying said at least one gain value as a continual function of said vehicle speed

signal." As stated above, the only speed sensor shown and disclosed in Middleton is an engine speed sensor 32. Accordingly, claim 36 is not anticipated by Middleton.

In regard to claim 71, the Examiner rejected this claim under 35 U.S.C. §102(b) as being anticipated by Middleton. However, as Applicant asserted in his filed response to the Office Action dated November 18, 2003, Middleton fails to show or disclose or all the limitations of claim 71. For example, Middleton fails to show or disclose a "... control computer modifying said engine speed difference and said at least one gain value as a function of said operating condition signal," as recited in claim 71. Accordingly, claim 71 is not anticipated by Middleton.

For at least the reasons cited above, claims 1, 36, and 71 are believed to be in condition for allowance. Because claims 2-10 and claims 37-45 depend from claims 1 and 36, respectively, and the § 103(a) rejection is based on an erroneous reading of Middleton as described above, this rejection is accordingly improper and these claims are also believed to be in condition for allowance. Claims 1-10, 36-45, and 71 are believed to be in condition for allowance, and such action is solicited. The Examiner is cordially invited to contact the undersigned by telephone to discuss any unresolved matters.

Respectfully submitted,



Jeffrey A. Michael  
Registration No. 37,394  
Barnes & Thornburg  
11 South Meridian Street  
Indianapolis, Indiana 46204-3335  
Telephone: (317) 231-7382  
Fax: (317) 231-7433